

with the checklist requirements of Section 271 of the Telecommunications Act of 1996.”²⁸ The Staff recommended approval on seven checklist items (numbers 1, 5, 6, 7, 8, 11, and 12); made no determination on four others (numbers 3, 9, 10, 13), and declined to recommend on the rest (numbers 2, 4, and 14). The Staff also proposed a schedule pursuant to which BellSouth would file supplemental information responding to each area of concern raised by the Staff for further consideration by the GPSC. By November 1998, BellSouth had filed all such requested information.

On May 7, 2001, the GPSC entered a procedural schedule for the filing of written comments addressing BellSouth’s compliance with Section 271. In response, 13 CLECs filed more than 2,350 pages of comments, reply comments, affidavits, and attachments. After reviewing that record, the GPSC’s Staff unequivocally recommended approval of BellSouth’s application: “After conducting an extensive review of the comments filed and application of the review standards established by the Federal Communications Commission (FCC), the Staff finds that BellSouth has m[et] the competitive checklist set forth in section 271 of the Act. The Staff bases [its] findings on the totality of the evidence submitted by the parties. . . . As a result of the Commission’s directives, BellSouth has undertaken the necessary steps to open its local exchange market to competition in Georgia.” *GPSC Staff Recommendation* at 1. The GPSC adopted that recommendation at its October 2, 2001 meeting.²⁹

June 11, 2001) (App. K – Ga., Tab 11).

²⁸ Staff Report and Opinion at 8, *BellSouth Telecommunications, Inc.’s Entry into InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. 6863-U (Ga. Pub. Serv. Comm’n Oct. 15, 1998) (App. C – Ga., Tab 16).

²⁹ The status of federal court challenges to BellSouth’s agreements in Georgia and Louisiana is noted at Attachment 3 to this Brief.

II. BELLSOUTH SATISFIES THE REQUIREMENTS OF TRACK A IN BOTH GEORGIA AND LOUISIANA

BellSouth easily satisfies the Track A requirements of section 271. In order to satisfy Track A, BellSouth must show that it

has entered into one or more binding agreements that have been approved under Section 252 of this title specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service . . . to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier.

47 U.S.C. § 271(c)(1)(A). BellSouth has readily made this showing in Georgia and Louisiana.

Georgia. BellSouth has successfully negotiated, and the GPSC has approved, more than 370 interconnection or resale agreements with CLECs in Georgia. *See Wakeling Aff.* ¶ 7; *Ruscilli/Cox Joint Aff.* ¶ 8 & Exh. JAR/CKC-3. At least 55 facilities-based providers in Georgia serve ten or more access lines. *See Wakeling Aff.* ¶ 16. Among the many facilities-based providers in Georgia with whom BellSouth has an interconnection agreement are MediaOne Telecom, MCImetro (including MCI WorldCom and MFS), Mpower, and Teleport Communications, each of which independently satisfies the requirements of Track A. *See id.* ¶ 19.

In addition, facilities-based CLECs operating in Georgia serve approximately 182,000 residential access lines and at least 546,000 business access lines in the State. *See id.* ¶ 18 & Table 2. The vast majority of these lines are served over CLECs' own facilities. *Id.*³⁰ Overall,

³⁰ *See Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, To Provide In-Region, InterLATA*

BellSouth's conservative estimate is that CLECs provide local service to at least 798,000 (and probably closer to 815,000) access lines, which represents at least 27.5% of the business market, 8.7% of the residential market, and 16.4% of the total access lines in BellSouth's territory in Georgia. *See Wakeling Aff.* ¶¶ 16, 18.

CLECs are providing facilities-based service in Georgia throughout the state, as evidenced by the depth and breadth of CLEC collocations. BellSouth has completed more than 700 collocation arrangements, with at least one collocation arrangement completed in 89 of 178 BellSouth wire centers in Georgia. *See id.* ¶ 24. Not surprisingly, CLECs are collocated heavily in the BellSouth wire centers with greater density. Of the total collocation arrangements, nearly half of the completed CLEC collocation arrangements are located in 16 BellSouth wire centers. *Id.* From these 16 wire centers alone, facilities-based CLECs can reach 22% and 44% of residential and business access lines in BellSouth's Georgia territory, respectively. *See id.* The 89 wire centers that have one or more completed collocation arrangements enable facilities-based CLECs to reach 86% and 93% of BellSouth's total residence and business access lines, respectively. *See id.*

Louisiana. BellSouth's satisfaction of Track A in Louisiana is equally clear.³¹ BellSouth has successfully negotiated, and the PSC has approved, more than 320 interconnection or resale agreements with CLECs in Louisiana. *See Wakeling Aff.* ¶ 7. At least 31 facilities-based providers in Louisiana serve ten or more access lines. *See id.* ¶ 20. Among the many facilities-based providers in Louisiana with whom BellSouth has an interconnection agreement are

Services in Michigan, 12 FCC Rcd 20543, ¶¶ 86-104 (1997) ("*Michigan Order*") (for purposes of Track A, service provided over UNEs is facilities-based).

³¹ *See LPSC Staff Final Recommendation* at 22 (noting that no party challenged BellSouth's compliance with Track A in Louisiana).

AccessOne, Cox, and ITC^DeltaCom, each of which independently satisfies the requirements of Track A. *See id.* ¶ 22.

As in Georgia, moreover, CLECs competing in Louisiana are providing local telephone exchange service to residential and business subscribers exclusively or predominantly over their own facilities. Facilities-based CLECs operating in Louisiana serve at least 8,600 residential access lines and at least 161,000 business access lines in the state. *See id.* ¶ 21 & Table 4. Overall, BellSouth estimates that CLECs provide local service to at least 227,500 (and probably closer to 234,000) access lines. *Id.* ¶¶ 20-21 & Tables 3-4. Although not as dramatic as the level of CLEC entry in Georgia, this number nonetheless represents at least 18.2% of the business market, 3.9% of the residential market, and 8.9% of the total access lines in BellSouth's territory in Louisiana. *Id.*

CLEC collocation arrangements further demonstrate the openness of the local market in Louisiana. BellSouth has completed nearly 470 collocation arrangements in Louisiana, with at least one collocation arrangement completed in 64 of 228 BellSouth wire centers. *See id.* ¶ 24. As in Georgia, CLECs are collocated heavily in the Louisiana wire centers with greater density. Of the total collocation arrangements, 268 are located in 19 BellSouth wire centers. *See id.* Table 6. From these 19 wire centers alone, facilities-based CLECs can reach 30% and 47% of residential and business access lines in BellSouth's territory, respectively. *See id.* From their existing collocation arrangements, facilities-based Louisiana CLECs can reach 73% and 86% of BellSouth's total residence and business access lines, respectively. *See id.*

BellSouth clearly meets the requirements of Track A in both Georgia and Louisiana. *See* 47 U.S.C. § 271(c)(1)(A).

III. BELLSOUTH HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE-APPROVED PERFORMANCE MEASUREMENTS

This Brief and the accompanying affidavits set out in detail BellSouth's compliance with the section 271 competitive checklist in Louisiana and Georgia. Much of that showing relies on performance data that compare BellSouth's wholesale provisioning of services and facilities for CLECs to BellSouth's treatment of its own retail services or against state commission-approved benchmarks. Before turning to the specific checklist items, BellSouth will demonstrate that these performance measures are comprehensive and that the reliability of BellSouth's data collection has been validated by repeated third-party audits and continues to be validated on an ongoing basis by both the Georgia and Louisiana PSCs.³²

In the *Second Louisiana Order*, the Commission recommended a number of changes to BellSouth's performance monitoring program.³³ As noted above, soon thereafter, the Louisiana PSC initiated a series of collaborative proceedings designed to fashion a comprehensive set of performance measures. These proceedings – which stretched to nine separate workshops consisting of 26 days of technical discussion and involved an independent consultant as well as CLECs such as AT&T, MCI WorldCom, Sprint, Intermedia, and Cox – resulted in a comprehensive set of measures that responds to each of this Commission's recommendations, as well as to the recommendations of CLECs and the Louisiana PSC. As BellSouth has also explained above, the GPSC also approved a comprehensive performance plan that incorporates many of the proposals developed as part of the Louisiana collaboratives.

³² BellSouth relies primarily in this Application on data from May, June, and July 2001. Georgia data for August 2001 became available only yesterday. It is provided in Appendix L to the Georgia Application at Tab 6. Although BellSouth has not been able to analyze that data yet, current information indicates that, overall, BellSouth has again improved its performance by meeting 84.1% of its sub-metrics, which is approximately 1% higher than in July.

In practice, those plans are very similar. *See Varner La. Aff.* ¶¶ 26-30. Indeed, the LPSC has recognized that the performance measurements in the GPSC-approved SQMs – which are the ones that BellSouth relies upon here – are sufficiently similar to the ones that it has adopted that they can be used to judge Louisiana performance for purposes of this Application and until BellSouth fully implements the LPSC’s final SQM plan. Accordingly, the LPSC accepted its Staff’s recommendation that it “adopt[] and . . . review . . . BellSouth’s performance data in the FCC format, utilizing the Georgia ordered SQM.” *LPSC Staff Final Recommendation* at 18; *see also Varner La. Aff.* ¶ 31.

That Georgia-approved plan (like the Louisiana-approved plan) tracks all aspects of BellSouth’s performance. It covers 12 separate categories: pre-ordering, ordering, provisioning, maintenance and repair, billing, operator services and directory assistance, database updates, E911, trunk group performance, collocation, change management, and bona fide/new business request process. *See Varner Ga. Aff.* ¶ 15; *Varner La. Aff.* ¶ 21. In response to this Commission’s recommendation, moreover, BellSouth’s performance measures now provide more than “sufficient . . . disaggregation . . . to demonstrate that it is providing nondiscriminatory access” to CLECs. *Second Louisiana Order* ¶ 92; *see, e.g., Varner Ga. Aff.* ¶ 16; *Varner La. Aff.* ¶ 34. All told, BellSouth reports data for approximately 2,250 sub-metrics. *See Varner Ga. Aff.* ¶ 6; *Varner La. Aff.* ¶ 6. Comprehensive explanations of BellSouth’s performance measures are attached to the affidavits of Alphonso Varner. *See Varner Affs.* Exhs. PM-1 & PM-13.

Although BellSouth’s existing Louisiana SQMs are more than adequate to allow this Commission to review BellSouth’s compliance with the checklist, they are nonetheless subject to modification – through open collaborative processes – as the local market and CLECs’ needs

³³ *See, e.g., Second Louisiana Order* ¶¶ 77, 92, 134.

change. See *LPSC May 14 Performance Measurements Order* at 4; *LPSC Staff Final Recommendation* at 9; Notice, *BellSouth Telecommunications Service Quality Performance Measurements Six-Month Review*, Docket No. U-22252(C) (La. Pub. Serv. Comm'n Sept. 25, 2001) (App. G—La., Tab 32). The Georgia PSC has similarly established a mechanism by which it will review performance measurements twice a year “for the purpose of modifying the SQMs and applicable analogs and benchmarks as deemed necessary by the Commission.” *GPSC Performance Measurements Order* at 29. The GPSC has invited CLECs to propose revisions and to comment on proposed changes during this process. *Id.* As this Commission has noted, this type of process – which reflects the “continuing ability of the [performance] measurements to evolve” – “is an important feature because it allows the Plan to reflect changes in the telecommunications industry and in the [local] market.” *Texas Order* ¶ 425.

Where possible, BellSouth compares its SQM performance against the service that BellSouth provides to its own retail operations. See *Varner Ga. Aff.* ¶ 18; *Varner La. Aff.* ¶ 25. Where no such comparison is available, BellSouth tracks its wholesale performance against benchmarks “sufficient to provide an efficient competitor a meaningful opportunity to compete.” *Second Louisiana Order* ¶ 134 (internal quotation marks omitted); see *Varner Ga. Aff.* ¶ 18; *Varner La. Aff.* ¶ 36. Again conforming to this Commission’s guidance, the benchmarks adopted in the SQM have been fully reviewed and approved by the Louisiana and Georgia PSCs; in a significant number of cases, those Commissions altered those benchmarks in response to CLEC comments. *Varner Ga. Aff.* ¶ 14; *Varner La. Aff.* ¶ 23; see *Second Louisiana Order* ¶ 134.

To assess whether performance on a given measurement establishes parity, BellSouth employs a modified z-test. *Varner Ga. Aff.* ¶ 34; *Varner La. Aff.* ¶ 49. This method – which is the same one employed in New York and Texas – adjusts for the effects of random variation

while answering this Commission's call for "statistical techniques" that "permit[] . . . analysis" by regulatory bodies. *Second Louisiana Order* ¶ 93; *see New York Order App. B*;³⁴ *Varner Ga. Aff.* ¶ 34; *Varner La. Aff.* ¶ 49.

BellSouth publishes comprehensive monthly performance reports on its website. *See Varner Ga. Aff.* ¶ 30; *Varner La. Aff.* ¶ 45. Performance data for CLECs and BellSouth retail units are available to all CLECs on an aggregate basis, and individual CLECs can access data specifically relevant to them on a password-protected basis. *Varner Ga. Aff.* ¶ 30; *Varner La. Aff.* ¶ 45. Moreover, BellSouth allows CLECs to access data underlying its measures and provides comprehensive instructions for translating those data into performance results. *Varner Ga. Aff.* ¶ 30; *Varner La. Aff.* ¶ 45.

BellSouth's performance data have been, and continue to be, validated by a comprehensive independent third-party audit by KPMG. These audits – conducted under the auspices of the Georgia PSC – have confirmed that BellSouth has systems and procedures in place to collect and report data accurately, that it follows those procedures, and that the end results are an accurate reflection of the performance that BellSouth provides its CLEC wholesale customers. The KPMG audits, which are discussed in detail in the affidavits of Alphonso Varner, have confirmed the accuracy of the data that BellSouth reports. For instance, the first two KPMG audits, which reviewed 85% of the 75 basic performance measures (before disaggregation) in the SQM, replicated 98% and 95% of BellSouth's results, respectively. *See Varner Ga. Aff.* ¶ 432; *see generally id.* ¶¶ 38, 387-431.

³⁴ Memorandum Opinion and Order, *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA, Service in the State of New York*, 15 FCC Rcd 3953 (1999).

As is inevitable in a process as comprehensive and complex as BellSouth's performance reporting processes, BellSouth's data, though reliable, are not perfect. In particular, because of concerns about the collection and reporting of data about two particular measurements – those tracking FOC and reject response completeness and average jeopardy notice interval – BellSouth does not rely on those measurements in this Application. *See Varner Ga. Aff.* ¶¶ 41-50. The Varner affidavits and their attachments address all of the discrete concerns that CLECs have raised as to particular performance measurements and data. *See id.* ¶¶ 356-386 & Exh. PM-11; *Varner La. Aff.* ¶¶ 359-389. This Commission can thus be confident that the data filed with this Application are accurate and sufficient to demonstrate BellSouth's compliance with the competitive checklist.

For the next five years, moreover, BellSouth's performance data are subject to an annual third-party audit, as well as to review by the Georgia PSC and the Louisiana PSC. The Georgia PSC and the Louisiana PSC also have both put in place an expedited review process to address any performance-measure issues – including data reliability issues – that CLECs may wish to raise. *Varner Ga. Aff.* ¶ 40. These processes provide additional assurance that BellSouth will continue accurately to report its performance, thus allowing state and federal regulators, along with CLECs, to monitor BellSouth's ongoing compliance with the requirements of the 1996 Act. *See Massachusetts Order* ¶ 247.³⁵

³⁵ Memorandum Opinion and Order, *Application of Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, 16 FCC Rcd 8988 (2001).

IV. BELLSOUTH SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN GEORGIA AND LOUISIANA

BellSouth satisfies each and every requirement of the competitive checklist in both Georgia and Louisiana. As to the six checklist items (and one sub-item) that this Commission found that BellSouth satisfied in its *Second Louisiana Order*, BellSouth continues to provide service to CLECs in both Georgia and Louisiana without substantial change since the Commission made that finding. As to the other checklist items, BellSouth has addressed every concern raised in the *Second Louisiana Order* and complies with all other Commission decisions and statutory requirements. That compliance is proven both by the evidence discussed below and by the indisputable fact that CLECs are competing and winning customers every day in both Georgia and Louisiana.

BellSouth has binding legal obligations as to each of the checklist items. Those obligations are in the Statement of Generally Available Terms (“SGAT”) that BellSouth has filed in both states and/or the agreements it has signed with individual CLECs. Those SGATs, as well as a matrix that identifies agreements that satisfy each checklist requirement or sub-requirement, are attached to the joint affidavit of John Ruscilli and Cynthia Cox (at Exhs. JAR/CKC-3 through JAR/CKC-6).

A. Checklist Item 1: Interconnection

Checklist Item 1 requires BellSouth to provide “[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).” *See* 47 U.S.C. § 271(c)(2)(B)(i). Section 251(c)(2) imposes upon incumbent local exchange carriers (“ILECs”) “[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network . . . for the transmission and routing of telephone exchange service and exchange access.” *Id.* § 251(c)(2)(A). “Such interconnection must be: (1) provided

at any technically feasible point within the carrier's network; (2) at least equal in quality to that provided by the [incumbent] to itself . . . ; and (3) provided on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of [section 251] and section 252." *Second Louisiana Order* ¶ 61 (internal quotation marks and footnotes omitted). Technically feasible methods of interconnection include, but are not limited to, physical and virtual collocation at the premises of an ILEC. *Id.* ¶ 62. Section 252(d)(1) requires that the rates for such interconnection be based on "cost."

As discussed below, BellSouth meets all applicable requirements for interconnection and has fully addressed this Commission's prior concerns regarding trunk blockage and legally binding terms and conditions for collocation. *See id.* ¶¶ 65-72, 77. CLECs in Georgia and Louisiana thus have access to the most fundamental prerequisite of local competition – the ability to send their customers' calls to, and receive calls from, customers of BellSouth and to link their networks to BellSouth's network for the mutual exchange of traffic. CLECs are able to connect their networks to BellSouth's by the most efficient means possible, including CLECs' placement of their own equipment in BellSouth's buildings.

1. Methods of Interconnection

In both Georgia and Louisiana, BellSouth provides five standard means by which CLECs can interconnect their networks to BellSouth's network: (1) physical collocation; (2) virtual collocation; (3) assembly point arrangements; (4) fiber optic meet point arrangements; and (5) purchase of facilities. *See Milner Aff.* ¶ 21. Each of these interconnection arrangements is available at the line side or trunk side of the local switch; the trunk connection points of a tandem switch; central office cross-connect points; out-of-band signaling transfer points; and points of access to unbundled network elements ("UNEs"). *Id.* ¶ 16; *Second Louisiana Order* ¶ 75.

BellSouth provides interconnection at all technically feasible points, including the option of selecting one technically feasible interconnection point in each LATA. *Milner Aff.* ¶ 16 (App. A, Tab O); *see also Ruscilli/Cox Joint Aff.* ¶¶ 40-42; *Pennsylvania Order*³⁶ ¶ 100; *New York Order* ¶¶ 63, 66-67; *Texas Order* ¶ 78; *Kansas/Oklahoma Order*³⁷ ¶ 223. Moreover, a CLEC may request, via the Bona Fide Request (“BFR”) process, to utilize any other interconnection point that is technically feasible. *See Milner Aff.* ¶ 16; *Kansas/Oklahoma Order* ¶ 232 n.686. BellSouth will provide a preliminary analysis of a BFR within 30 days of receiving it and will fully develop the quote and specifications as soon as feasible (but not more than 90 days) after receiving the CLEC’s approval to proceed. *See Ruscilli/Cox Joint Aff.* ¶ 15.

Interconnection rates, including those for collocation, have been set by the Georgia PSC and the Louisiana PSC based on this Commission’s TELRIC methodology. *See Caldwell Aff.* ¶¶ 92-100, 122-127; *Gray Aff.* ¶¶ 7-8 (App. A, Tab H); *see also id.* ¶ 25 (collocation site preparation charges are allocated on a pro-rata, per-square-foot basis). All BFR rates proposed by BellSouth shall be cost-based and in accordance with the TELRIC methodology (unless the CLEC agrees otherwise or the requested capability is not subject to the 1996 Act’s pricing standards). *Ruscilli/Cox Joint Aff.* ¶ 15.

BellSouth provides CLECs with Multiple Tandem Access (“MTA”) and local tandem interconnection. BellSouth MTA provides for LATA-wide BellSouth transport and termination of CLEC-originated local and BellSouth-transported intraLATA traffic by establishing a point of

³⁶ Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, FCC 01-269 (rel. Sept. 19, 2001).

³⁷ Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd 6237 (2001), *appeal pending*, *Sprint Communications Co. v. FCC*, Nos. 01-1076, *et al.* (D.C. Cir.).

interconnection at a BellSouth access tandem with routing through multiple BellSouth access tandems as required. *See Milner Aff.* ¶ 22. For local tandem interconnection, a CLEC may request either basic local tandem interconnection, which allows CLECs to terminate traffic to BellSouth's end office switches and wireless service provider switches within the area served by the tandem, or enhanced local tandem interconnection, which adds the ability to terminate traffic to other CLEC and independent company switches in the area served by the tandem. *Id.* ¶ 77. As of July 24, 2001, BellSouth had provided 1,416 local tandem interconnection trunks to five CLECs in Georgia, and 864 local tandem trunks to one CLEC in Louisiana. *Id.*

BellSouth offers CLECs various options to route local/intraLATA toll traffic and transit traffic over separate trunk groups or over a single trunk group, or over one-way or two-way trunks. *Id.* ¶ 23; *Second Louisiana Order* ¶ 64. BellSouth provisions local/intraLATA toll trunks for traffic between CLEC end users and BellSouth end users or wireless service providers and vice versa. *Milner Aff.* ¶ 24. Local traffic or local/intraLATA toll traffic may be delivered at the BellSouth local tandem, the BellSouth access tandem, or the BellSouth end office. *Id.* These trunks may use multi-frequency or SS7 signaling and may be one-way or two-way. *Id.* ¶ 25.

In addition, BellSouth provides transit trunks for traffic between a CLEC and a third party such as an independent company, interexchange carrier, or another CLEC. *Id.* Transit trunk groups generally are two-way trunks but may be provisioned as one-way trunks. *Id.* They may use multi-frequency or SS7 signaling. *Id.* If a CLEC chooses, additional trunk groups may be established for operator services, directory assistance, emergency services, and intercept. *Id.* ¶ 39.

In the *Second Louisiana Order*, this Commission concluded that BellSouth demonstrated that it has a binding legal obligation to provide interconnection in accordance with the

Commission's rules. *See Second Louisiana Order* ¶ 75 & n.210. That remains the case today. *See Milner Aff.* ¶ 7. To carry traffic between BellSouth and CLEC locations, BellSouth has provisioned nearly 120,000 interconnection trunks from CLECs' switches to BellSouth's switches in Georgia, and more than 26,000 such trunks in Louisiana. *Id.* ¶ 40. BellSouth has provided more than 65,000 two-way trunks (including transit traffic) in Georgia, and more than 16,000 two-way trunks in Louisiana. *Id.* This significant degree of commercial usage in and of itself demonstrates that CLECs can interconnect with BellSouth's network.

2. Nondiscriminatory Access to Interconnection Trunks

BellSouth is providing interconnection trunks to CLECs at a level of quality that is indistinguishable from that which BellSouth provides to its retail units. BellSouth follows the same installation process for CLEC interconnection trunks as it does for itself. *See Milner Aff.* ¶ 21. Also, to ensure nondiscrimination, BellSouth provisions CLEC trunks using the same equipment, interfaces, technical criteria, and service standards that are used for BellSouth's own trunks. *See id.* ¶ 23. BellSouth also follows the same procedures for forecasting interconnection trunks for CLECs as it does for itself. *Id.* ¶ 46; *see generally New York Order* ¶¶ 64, 67-68; *Texas Order* ¶ 62.

Even in the face of rapidly growing demand, BellSouth has provided interconnection trunks to CLECs in a timely manner, and has fully addressed this Commission's concerns over trunk blockage expressed in the 1998 *Second Louisiana Order* (¶ 77). BellSouth has developed a new trunk blockage report that compares BellSouth's retail trunk blockage rates to those of CLECs, and that is significantly more accurate than prior reports. *Varner Ga. Aff.* ¶¶ 100-105; *Varner La. Aff.* ¶¶ 115-120.

That report demonstrates that, in Georgia, BellSouth met or exceeded parity for trunk blockage in May and July 2001. *Varner Ga. Aff.* ¶ 106. Blocking on CLEC trunk groups in June

2001 was only slightly out of parity. *See* BellSouth Monthly State Summary – Georgia, June 2001 (C.5.1) (*Varner Affs.* Exh. PM-3). However, that was largely due to traffic increases of greater than 20% without prior notice, CLEC delay in equipment processing, or failures in CLEC equipment. *Varner Ga. Aff.* ¶ 106; *cf. Milner Aff.* ¶¶ 9-14, 52 (discussing how specific CLECs that have complained about inadequate trunking had failed to give BellSouth demand forecasts); *LPSC Staff Final Recommendation* at 26 (similarly noting that, although “AT&T was one of the most outspoken critics of BellSouth’s performance [on trunk blockage], AT&T did admit during the collaborative workshops that it did not forecast any need for trunks”).

In Louisiana, BellSouth met or exceeded parity for trunk blockage in May, June, and July 2001. *Varner La. Aff.* ¶ 121; *see also LPSC Staff Final Recommendation* at 26-27 (discussing steps implemented at the Louisiana collaborative, including CLEC provision of fresh trunking forecasts, to ensure that BellSouth continues to meet CLECs’ trunking needs).

In Georgia, BellSouth met or exceeded all applicable provisioning performance measures in May, June, and July 2001. *Varner Ga. Aff.* ¶¶ 89-92. *See New York Order* ¶¶ 63-65, 67-68 (finding data on trunk blockage and provisioning to be persuasive indicators of a BOC’s satisfaction of Checklist Item 1); *Kansas/Oklahoma Order* ¶¶ 223-224. With a minor exception (installation appointments for May 2001), BellSouth also met all of the relevant metrics for trunk provisioning measures in Louisiana. *Varner La. Aff.* ¶¶ 104-107.

3. Collocation

The provision of collocation is an essential prerequisite to demonstrating compliance with Checklist Item 1. To show compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are “just, reasonable, and nondiscriminatory” in accordance with section 251(c)(6) and the Commission’s implementing rules. *See Second*

Louisiana Order ¶ 62; *Texas Order* ¶ 64. To assess BellSouth's provision of collocation, the Commission may rely on data showing the quality of procedures for processing applications for collocation space as well as the timeliness and efficiency of provisioning collocation space. See *Second Louisiana Order* ¶ 62; *Texas Order* ¶ 64.

In the *Second Louisiana Order*, this Commission expressed concern that BellSouth "fails to make a *prima facie* showing that it can provide collocation on terms and conditions that are 'just, reasonable, and nondiscriminatory' in accordance with section 251(c)(6)." *Second Louisiana Order* ¶ 65. The Commission concluded that BellSouth's reliance on its SGAT, which referred to terms and conditions set forth in BellSouth's non-binding Collocation Handbook, failed to demonstrate *legally binding* terms and conditions for collocation. *Id.* ¶¶ 66-72. In addition, the Commission questioned the reasonableness of BellSouth's non-binding provisioning intervals. *Id.* ¶ 71. BellSouth has fully remedied these issues: legally binding rates, terms, and conditions (including provisioning intervals) are established in BellSouth's interconnection agreements, its Georgia and Louisiana SGATs, its Louisiana access tariff, and its FCC Virtual Collocation Tariff. See *Gray Aff.* ¶¶ 3-5; see also *id.* ¶ 20 (noting that BellSouth affiliates obtain collocation in the same manner as CLECs).³⁸ As the Louisiana PSC Staff explained, "BellSouth has clearly demonstrated . . . that it provides legally binding terms and conditions for collocation." *LPSC Staff Final Recommendation* at 29. BellSouth's legally

³⁸ BellSouth also maintains a resource guide in the form of a "Collocation Handbook," which describes BellSouth's various collocation offerings and provides useful information to CLECs regarding the general terms and conditions of collocation. Although some of its provisions may form the basis for a negotiated Interconnection Agreement, it is not in itself a document legally binding on the CLEC and therefore does not control the rates, terms, or conditions for collocation offered by BellSouth. Rather, it is BellSouth's Interconnection Agreements, SGATs, and tariffs that provide the legally binding terms of collocation. See *Gray Aff.* ¶ 9.

binding provisioning intervals, which were set by the Georgia PSC and the Louisiana PSC, are discussed further below.

Physical collocation of CLEC equipment is available where space permits. *See Gray Aff.* ¶ 78. BellSouth offers caged, shared caged, cageless, microwave, and remote terminal collocation, all at a CLEC's option. *Id.* ¶¶ 20-27, 38, 39-43. BellSouth also offers adjacent collocation if space in a particular premises is exhausted. *Id.* ¶¶ 28-36. If space in the initially sought premises subsequently becomes available, the CLEC may, at its option, relocate to that interior space. *Id.* ¶ 37. BellSouth gives notice to CLECs via its website when space has become available in a previously exhausted central office and will allocate newly available space pursuant to the waiting list maintained for that central office. *Id.* ¶ 67. Virtual collocation is available where space for physical collocation is legitimately exhausted or at a CLEC's request, regardless of the availability of physical collocation. *Id.* ¶¶ 45-48.

BellSouth permits the collocation of equipment that, under this Commission's definition, is "necessary" for interconnection or access to UNEs. *See* 47 U.S.C. § 251(c)(6); *Gray Aff.* ¶¶ 21, 44; *see* Fourth Report and Order, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, FCC 01-204, ¶¶ 13-54 (rel. Aug. 8, 2001) (eff. Sept. 19, 2001) ("*Collocation Remand Order*"). BellSouth also offers CLECs the opportunity to cross-connect with other collocated CLECs in conformance with the *Collocation Remand Order*. *Gray Aff.* ¶ 104; *see Collocation Remand Order* ¶¶ 55-84. BellSouth will not impose safety requirements on CLEC equipment that are more stringent than the safety requirements it imposes on its own equipment that it locates in the premises; BellSouth will also afford CLECs direct access to their equipment twenty-four hours a day, seven days a week, as well as access to restrooms and parking. *Gray Aff.* ¶¶ 105, 121, 123.

BellSouth will provide interconnection points for collocation at the manhole or cable vault, which is the point as close as possible to BellSouth's premise that is accessible to both BellSouth and the CLEC. *Milner Aff.* ¶ 64; 47 C.F.R. § 51.323(d)(1). BellSouth will provide two such interconnection points where there are at least two entry points available and where capacity exists. *Milner Aff.* ¶ 64; 47 C.F.R. § 51.323(d)(2).

BellSouth provisions physical and virtual collocation in accord with the intervals approved by the Georgia PSC and the Louisiana PSC, which allow CLECs to obtain collocation in a timely manner. *See Gray Aff.* ¶¶ 10-15; *see also* 47 C.F.R. § 51.323(l) (providing that the Commission's national default intervals for physical collocation are inapplicable where "a state sets its own deadlines"). As a result, BellSouth informs a Georgia or Louisiana applicant whether space is available within 10 days of receiving a bona fide physical collocation application. *Gray Aff.* ¶ 59. BellSouth provides a price quote and other information within 20 days of receiving the application (10 days for virtual collocation) in Georgia, and within 30 days of receiving the application (20 days for virtual collocation) in Louisiana. *Id.* ¶¶ 70-71. The CLEC may then submit a firm order for collocation within thirty days. *Id.* ¶ 75.

In Georgia and Louisiana, BellSouth provisions caged collocation space within 90 days of receiving a firm order and cageless collocation space within 60 days of receiving a firm order (90 days in extraordinary conditions requiring, for example, major power plant upgrades or hazardous condition abatement). *Id.* ¶¶ 83-84. BellSouth provisions virtual collocation within 50 days of receiving a firm order (75 days in extraordinary conditions). *Id.* ¶¶ 99-100.

Collocation is readily available, as evidenced by the fact that BellSouth has provisioned 604 physical collocation sites in 88 central offices in Georgia, and 442 physical collocation sites

in 64 central offices in Louisiana. *Milner Aff.* ¶¶ 66-67. BellSouth has also provisioned 104 virtual collocation sites in Georgia and 26 in Louisiana. *Id.* ¶¶ 72-73.

Not only is BellSouth making collocation available, it is doing so in a timely and accurate manner consistent with the intervals established by the Georgia PSC and the Louisiana PSC. In May, June, and July 2001, BellSouth met the applicable benchmarks for *every* collocation measure and sub-metric in both Georgia and Louisiana. *See Varner Ga. Aff.* ¶¶ 82-86; *Varner La. Aff.* ¶¶ 97-101. This Commission has found this type of performance data for collocation to be compelling evidence of compliance with the 1996 Act. *See Texas Order* ¶ 64.

Where collocation space is exhausted for a particular central office, BellSouth will submit to the GPSC or LPSC detailed information, including floor plans, demonstrating the lack of space. *See Gray Aff.* ¶¶ 60-62. In addition, BellSouth will provide any CLEC that is denied space due to exhaust a tour of the entire premises in question within ten calendar days of the denial of space. *Id.* ¶¶ 60, 62. To help alleviate exhaust situations, BellSouth will remove unused obsolete equipment from its premises upon reasonable request by a CLEC or order of a state commission. *Id.* ¶ 69. Collocation space is also available in single-bay increments, which further conserves space. *Id.* ¶¶ 22-23, 26.

BellSouth maintains a publicly available document on its Interconnection Website that lists all central offices where collocation space has been exhausted. BellSouth updates this document within ten days of an event, such as space assignment for collocation or use by BellSouth, that exhausts collocation capacity in a particular premises (*i.e.*, leaves less than a single bay of collocation space). *See id.* ¶¶ 63-67. BellSouth's policy on this point satisfies its obligations as recently interpreted by the Commission's Enforcement Bureau. *See Order of Forfeiture, SBC Communications Inc. Apparent Liability for Forfeiture*, File No. EB-00-IH-

0326a, DA 01-1273, ¶ 10 (Enf. Bur. rel. May 24, 2001) (finding that similar SWBT policy satisfies the requirements of 47 C.F.R. § 51.321(h)).

B. Checklist Item 2: Nondiscriminatory Access to Unbundled Network Elements

BellSouth satisfies Checklist Item 2 in Georgia and Louisiana by providing “nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.” 47 U.S.C. § 251(c)(3); *see id.* §§ 271(c)(2)(B)(ii), 252(d)(1). This offer of leased access to individual components of BellSouth’s local exchange network enables CLECs to serve their local customers without duplicating BellSouth’s multi-billion dollar investment in local network infrastructure.

1. Access to UNEs Generally

BellSouth has legally binding obligations in both Georgia and Louisiana to provide access to all UNEs identified by this Commission, including those added by the *UNE Remand Order*.³⁹ *See Milner Aff.* ¶ 78; *Ruscilli/Cox Joint Aff.* ¶ 8; Ga. SGAT Attach. C; La. SGAT Attach. C. In both states, BellSouth offers CLECs access to, among other things, dark fiber, subloops, local switching, tandem switching, signaling networks, call-related databases, line conditioning, and information on loop qualification. *See* Ga. SGAT Attach. C; La. SGAT Attach. C; *Milner Aff.* ¶¶ 79-80. BellSouth also has committed to use its best efforts to obtain for CLECs, under commercially reasonable terms, intellectual property rights to each unbundled network element necessary for CLECs to use such unbundled elements in the same manner as BellSouth. *See Milner Aff.* ¶ 81.

³⁹ Third Report and Order and Fourth Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696 (1999).

2. UNE Combinations

BellSouth provides access to UNEs in a manner that allows requesting carriers to access preexisting combinations of network elements, as well as to combine UNEs for themselves. *See id.* ¶ 99; *LPSC Staff Final Recommendation* at 70.

Actual commercial usage confirms that BellSouth provides access to pre-assembled combinations of network elements, including loop and port combinations, or UNE-P, on a reasonable and nondiscriminatory basis. As of July 31, 2001, BellSouth had over 144,000 loop and port combinations in place in Georgia, and nearly 15,000 in place in Louisiana. And across BellSouth's nine-state region, BellSouth had more than 417,000 such combinations in place for CLECs. *See Milner Aff.* ¶ 109. BellSouth also provides nondiscriminatory access to combinations of unbundled loops and transport network elements, commonly referred to as Enhanced Extended Links ("EELs").⁴⁰ *See id.* ¶ 108. As of July 31, 2001, BellSouth had provided 1,946 EELs to CLECs in Georgia, and 62 EELs to CLECs in Louisiana. *See id.* These UNE combinations are available to all CLECs in Georgia and Louisiana on a legally binding basis through interconnection agreements and the SGATs. *See id.* ¶ 78; Ga. SGAT Attach. C, § 4.1; La. SGAT Attach. C, § 4.1. And, in accordance with the Commission's rules, BellSouth will not separate network elements it currently combines unless a CLEC requests that it do so. *See Ga. SGAT § II.E.3; LPSC Staff Final Recommendation* at 70. Moreover, in accordance with

⁴⁰ In order to convert special access facilities to EELs, the CLEC must self-certify that it is providing a significant amount of local exchange traffic over the loop/transport combination. Supplemental Order Clarification, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 9587 (2000). BellSouth does not make auditing a precondition to converting special access to UNEs, although BellSouth reserves the right to audit the CLEC's records to verify the type of traffic being transmitted over the loop/transport network element combination, and if necessary, to file a complaint with the appropriate regulatory authority. Ga. SGAT § II.E.3; La. SGAT Attach. C, § 8.51.

decisions of the Georgia PSC and Louisiana PSC, BellSouth goes beyond what is required by the 1996 Act by making available UNE combinations so long as the relevant facilities are ordinarily combined, even if the particular elements are not in fact combined. *See Milner Aff.* ¶¶ 100-101; *LPSC Staff Final Recommendation* at 70-71.

Finally, as a practical and legal matter, BellSouth makes access to UNEs available in a manner that allows CLECs to combine them. *See Milner Aff.* ¶ 99. *See also Second Louisiana Order* ¶ 163. In the *Second Louisiana Order*, the Commission expressed concern that BellSouth offered collocation as the sole method for combining UNEs. *See Second Louisiana Order* ¶ 168. That is no longer the case. In Georgia and Louisiana, BellSouth now provides access to pre-combined UNEs if they are actually or ordinarily combined by BellSouth and does not separate them. *See Milner Aff.* ¶¶ 100-101. And as explained in the affidavit of Keith Milner, BellSouth provides CLECs with a variety of means by which CLECs may combine network elements, such as collocation and assembly point arrangements. *See id.* ¶¶ 76, 100. BellSouth offers a variety of physical collocation arrangements, including caged, shared cage, and cageless and shared cageless collocation, all at a CLEC's option. *See id.* ¶¶ 64-70, 100, 103, 105-107, *Gray Aff.* ¶ 20.⁴¹ Also, virtual collocation is available where space for physical collocation is legitimately exhausted or at a CLEC's request regardless of the availability of physical collocation. *See Gray Aff.* ¶¶ 45-48; *Milner Aff.* ¶¶ 71-75, 103.

⁴¹ In order to combine network elements within CLECs' collocation arrangements, CLECs will use the same types of cross-connections that BellSouth regularly uses thousands of times every day in its retail operations. *See Milner Aff.* ¶ 107. When BellSouth connects a new customer to its network, it uses cross-connections to combine facilities, just as CLECs may do. *See id.* CLECs' use of cross-connections to combine network elements into an operational network is a routine part of local telephone operations and precisely analogous to the manner in which BellSouth establishes service to a customer premises not previously served by its own network. *See id.*

CLECs are not required to provide their own equipment to combine UNEs, and they may provide telecommunications service completely through access to the unbundled elements in BellSouth's network. *See Milner Aff.* ¶ 83; *Second Louisiana Order* ¶ 170. In fact, CLECs are not limited to these methods of combining UNEs, but may request any other technically feasible method of access to combine UNEs consistent with the provisions of the 1996 Act, and other governing statutes and decisions. *See Milner Aff.* ¶¶ 64, 78. *See also Second Louisiana Order* ¶ 168.

Finally, BellSouth's performance with respect to ordering, provisioning, and maintenance and repair of loop-port combinations has been excellent in both Louisiana and Georgia. As to ordering, much of that performance is discussed below under the OSS section of this checklist item. As to provisioning, BellSouth met all but one of the benchmarks for order completion interval ("OCI") for loop-port combinations in May and June in Georgia. *See BellSouth Monthly State Summaries – Georgia, May-July 2001 (Varner Aff. Exhs. PM-2 to PM-4) (B.2.1.2.1.1 – B.2.1.3.2.4).* This held true in July as well except for two sub-metrics where the difference was not substantial (0.02 days and 0.24 days) and one where there were only four orders. *See id.* (B.2.1.3.1, B.2.1.3.2). Moreover, for maintenance and repair, BellSouth met 100% (10 out of 10) of these measures between May and July 2001.

In Louisiana, BellSouth met all but one loop-port order completion interval sub-metrics where there was CLEC activity between May and July. *See BellSouth Monthly State Summaries – Louisiana, May-July 2001 (Varner Affs. Exhs. PM-14 to PM-16 (B.2.1.3.1.1 – B.2.1.3.2.4)).* And the difference for that missed metric was not substantial – 0.20 days. *See id.* (B.2.1.3.1.4). As for maintenance and repair, BellSouth met 100% (10 out of 10) in July, 90% (9 out of 10) of

those measures in June, and 100% (10 out of 10) in May 2001. *See id.* (B.3.1.3; B.3.2.3; B.3.3.3; B.3.4.3; B.3.5.3).

3. Pricing of Unbundled Network Elements

The unbundled network element rates that the GPSC and LPSC have established (and that BellSouth offers) comply fully with the 1996 Act and this Commission's rules. *See generally Caldwell Aff.; Ruscilli/Cox Joint Aff.* ¶¶ 10, 17-39; Ga. SGAT Attach. A; La. SGAT Attach. A. In establishing BellSouth's rates, both state commissions consistently applied forward-looking methodologies, and they have repeatedly demonstrated their "commitment to TELRIC-based rates." *New York Order* ¶ 238; *Massachusetts Order* ¶ 27.

The results those expert agencies have reached after extensive proceedings on these inherently fact-intensive questions warrant the respectful review that this Commission has stated is appropriate. The Commission should "place great weight" on the state commissions' determinations that BellSouth's rates are TELRIC-compliant. *New York Order* ¶ 238. As the Commission has explained, its proper role here is limited: "we will reject the application only if basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce." *New York Order* ¶ 244; *see also Massachusetts Order* ¶ 20; *Kansas/Oklahoma Order* ¶ 59; *Pennsylvania Order* ¶ 55.

a. Georgia

The GPSC has established a "full suite of TELRIC rates." *See New York Order* ¶ 238 (internal quotation marks omitted). The GPSC has made plain its commitment to establishing forward-looking rates, and it has even slashed BellSouth's reasonable submissions as to key cost components (including depreciation, cost of capital, and fill factors) to ensure that the rates it established were in fact forward-looking.

Although the GPSC had no obligation to set rates that guaranteed profitable entry for CLECs, the market facts here belie any assertion that the GPSC's rate determinations are inconsistent with this Commission's understanding of the pro-competitive requirements of the 1996 Act. The undeniable reality is that, under the current rate structure, CLECs have obtained a very large share of the Georgia market. Moreover, sophisticated competitors such as MCI WorldCom have recently committed to broad-based entry. Indeed, MCI WorldCom has singled out the GPSC's "rulings on UNE combinations and pricing" as having "made possible MCI's initial entry in the Georgia local residential market."⁴² Accordingly, there is no reason for this Commission to contravene its prior precedents and substitute its judgment for the GPSC's as to fact-intensive pricing issues.

Additionally, the GPSC has already commenced a proceeding (in Docket No. 14361-U) to set new TELRIC rates. BellSouth has filed cost studies in that docket; hearings are scheduled for the second week of December 2001; and the proceeding should be complete by early 2002. Given the GPSC's demonstrated commitment to establishing forward-looking rates, that new proceeding provides the proper – and an entirely adequate – forum to address any discrete concerns of CLECs regarding particular rates. *See Massachusetts Order* ¶¶ 35, 39; *Caldwell Aff.* ¶¶ 120-121.

The GPSC has set UNE rates in three proceedings: (1) Docket No. 7061-U, where the GPSC established TELRIC-compliant rates for individual network elements; (2) Docket No. 10692-U, where the GPSC set TELRIC-compliant rates for combinations of network elements, including those combinations used in the UNE Platform; and (3) Docket No. 11900-U, where the

⁴² Initial Comments of MCI WorldCom, Inc. at 2, Docket No. 6863-U (Ga. Pub. Serv. Comm'n filed May 31, 2001).